

AMENDMENT under 37 C.F.R. § 1.111
U.S. Appln. No. 09/385,607

REMARKS

Claims 1-21 are pending in the application. Claims 1-21 stand rejected. Reconsideration and allowance of all pending claims are respectfully requested in view of the remarks that follow.

OBJECTIONS.

DRAWINGS

The Office Action objects to the drawings for two basic reasons: (i) it is alleged the indicia claimed in claims 1 and 11 are not shown in the drawings in accordance with 37 C.F.R. § 1.83(a) and (ii) the drawings are informal due to hand written reference numerals.

(i) Applicant respectfully submits the “indicia” claimed in the instant claims are already shown by the text in element 44 of Fig. 2. Accordingly, the requirements of 37 C.F.R. § 1.83(a) are believed to be met. For example, a labeled representation of a rectangular box corresponding to the claimed indicia (e.g., 44; Fig. 2) is present in the drawings and is thus the drawings are compliant with 37 C.F.R. § 1.83(a). If it is the Examiner’s position that, for example, a graphical representation of a .pdf image of a credit card, signature or an account holder should be shown in the drawing, the Examiner is respectfully solicited to state why such a graphical representation is not considered a conventional feature and is essential for proper understanding of the invention.

(ii) In respect to the alleged informality of hand written reference numerals, Applicant respectfully submits that 37 C.F.R. § 1.121(d) is not a proper basis for objecting to original drawing figures. Instead, the cited regulation relates to the manner of making amendments to an application. Further, Applicant is unaware of any requirement that drawings be presented in formal nature prior to payment of the issue fee in an application; simply that they are in

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reproducible form. While Applicant may submit drawings with type-faced Reference numerals, may submit drawings once allowable subject matter is indicated, Applicant directs the Examiner to 37 C.F.R. § 1.111(a) and (b) sections (l) and (p) for requirements as to drawing formalities in this regard. In view of the foregoing, reconsideration of the drawing objections is respectfully requested.

SPECIFICATION

The Office Action objects to the Abstract and Title for various reasons. By this Amendment, Applicant amends both the Title and Abstract to comply with the Examiner's concerns.

The Office Action further objects to the Summary of the Invention Section alleging the Summary does not describe the invention as presently claimed. Applicant respectfully disagrees. For example, claim 1 recites *a modem capable of storing identifying indicia and software stored in the modem capable of transmitting identifying indicia to a communication line*. These recitations are set forth almost verbatim in the Summary on page 3 first paragraph. Additionally, there is no requirement that the Summary section discuss all features which are claimed or even is there a requirement that a Summary section be present whatsoever. For the foregoing reasons, Applicant respectfully requests reconsideration of all objections to the specification.

CLAIM REJECTIONS.

35 U.S.C. § 112 (First Paragraph)

Claims 1-21 are rejected under 35 U.S.C. § 112 first paragraph as not complying with the written description requirement. Applicant respectfully traverse this rejection for the following reasons.

The Office Action alleges that there is no support in the specification for the limitations in claims 1 and 11. Specifically, it is alleged there is no support that the claimed graphics data

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could include any images separate images of a credit card, a signature or an account holder. The Office Action notes the specification discloses an embodiment showing one image with all three disclose all three items present together.

In determining whether the description requirement is met, the examiner has the initial description requirement burden of presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims. *In re Wertheim*, 541 F.2d 257, 262 (CCPA 1976) (see also, MPEP 2163.04). In the instant case, Applicant respectfully submits that the present rejection is improper on its face since there is no attempt to explain why the skilled artisan would not recognize that an image containing credit card, signature and account holder disclosed in the specification, could be separated or that any one of the image information could be individually used for authentication purposes.

Applicant submits that simply because the disclosure discusses an example embodiment where these various image information may be used for authentication purposes as a combination, it does not mean the skilled artisan would not recognize each could alternatively be used individually. Additionally, Applicant directs the Examiner to pg. 7, ll. 16-17 and pg. 8, ll. 7-8 of the specification which clearly discloses embodiments in which various individual images are disclosed. In view of the foregoing, reconsideration and withdrawal of the 112 first paragraph rejection is respectfully requested.

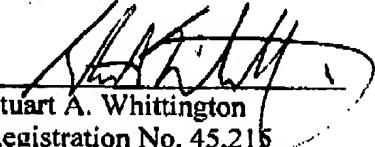
CONCLUSION.

In view of the foregoing, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of

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this case, and any required fee or deficiency thereof, except for the Issue Fee, is to be charged to
Deposit Account #50-0221.

Respectfully submitted,



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